IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS BEAUMONT DIVISION

ROBERT CAMPBELL	§	
VS.	§	CIVIL ACTION NO. 1:16-CV-353
VIRGIL WEAVER, et al.,	8	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Robert Campbell, an inmate formerly confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Christopher Carter, Robert Grant, Virgil Weaver and James Sloan.

The court referred this matter to the Honorable Keith Giblin United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's claims be dismissed as barred by the statute of limitations and for failure to properly exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleading. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court finds plaintiff's objections lacking in merit. The continuing tort doctrine does not save this petition. Plaintiff's allegations are of a continuing injury from an action occurring in 2009 and are not continuing wrongful conduct. *See Arquette v. Hancock*, 656 S.W.2d 627, 629 (Tex. App. -- San Antonio 1983, writ ref'd n.r.e.). Plaintiff also failed to properly exhaust his administrative remedies.

<u>ORDER</u>

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

So Ordered and Signed

Aug 28, 2018

Ron Clark, Senior District Judge

Pm Clark